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Before the
FEDERAL COMMUNICATIONS COMMISSION Federal Communications Commission
Washington, D.C. 20554 Office of Secretary

In the Matter of)
) CC Docket No. 96-193
Implementation of the)
Telecommunications Act of 1996)
)
Reform of Filing Requirements)
and Carrier Classifications)
)
Anchorage Telephone Utility,) AAD 95-91
Petition for Withdrawal of)
Cost Allocation Manual)

To: The Commission

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COMMENTS

PUERTO RICO TELEPHONE COMPANY

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Dated: October 15, 1996

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SUMMARY

The primary goal of the Commission in modifying the procedures by which carriers may make changes to their cost allocation manuals should be to allow carriers the necessary flexibility to respond to the competitive demands of the market. Such flexibility is extremely limited under the current 60-day notification procedure and would be further reduced by the use of a waiver procedure. Such limitation on competitive flexibility is contrary to the goals of Section 402(b)(2)(B) of the Telecommunications Act of 1996.

Allowing carriers to update their cost allocation manuals once a year, with no requirement for between-filing updates, would provide carriers with the flexibility needed to meet changing market conditions while providing the Commission with sufficient carrier cost allocation information. Alternatively, allowing carriers to implement changes while simultaneously submitting notification to the Commission would provide carriers with sufficient flexibility while allowing the Commission additional information from which to monitor carrier cost allocations.

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To: The Commission

COMMENTS OF PUERTO RICO TELEPHONE COMPANY

Puerto Rico Telephone Company ("PRTC"), by its attorneys and pursuant to Section 1.415 of the Commission's Rules,¹ submits these Comments in response to the above-captioned Notice of Proposed Rulemaking ("NPRM"). PRTC's Comments address the following issue raised in the NPRM: whether the Commission should retain the existing 60-day notice requirement for certain changes to a carriers' Cost Allocation Manual ("CAM") or abolish the notice requirement and require carriers to seek a waiver of the Commission's rules to implement such changes.²

1. 47 C.F.R. § 1.415.

2. PRTC may offer reply comments on additional issues after review of comments submitted in this proceeding.

I. INTRODUCTION

The Telecommunications Act of 1996 ("1996 Act")³ made significant changes to Title 47 to introduce competition into the telecommunications marketplace. One such change, Section 402(b)(2)(B) of the 1996 Act, modified the CAM and Automated Reporting Management Information System ("ARMIS") reporting requirements of common carriers to require that these reports be filed on an annual basis. In the above-captioned proceeding, the Commission requested comments on whether, in addition to the changes ordered by Congress, the Commission should modify its rule allowing carriers to implement changes to their CAMs only after a 60-day notice period.⁴ Currently, Section 64.903 of the Commission's rules requires that "changes to the cost apportionment table and to the description of time reporting procedures must be filed at least 60 days before the carrier plans to implement the changes."⁵ The Commission proposed two alternatives: retaining the 60-day notice requirement or abolishing the notice requirement and

3. Pub. L. No. 104-104, 110 Stat. 56, 129 (1996).

4. NPRM at ¶ 21.

5. 47 C.F.R. § 64.903(b) (1995).

requiring carriers to seek a waiver of the Commission's rules to modify their CAM. The Commission also requested information on whether these proposals are consistent with Section 402(b)(2)(B) of the 1996 Act.

II. Discussion

A. Section 402(b)(2)(B) Should Not Be Implemented In Such a Way As to Competitively Disadvantage Carriers.

PRTC urges the Commission to implement the spirit of the 1996 Act which seeks not only to introduce competition into the communications marketplace, but to allow the participants in this marketplace the freedom and flexibility to respond to the competitive demands placed on them. In this spirit, the Commission should implement rules that reduce the filing requirements on carriers and allow carriers to respond quickly to the demands of the marketplace without having to wait for a Commission response. PRTC believes that allowing carriers to update their CAMs and report all changes once a year, with no requirement to provide interim updates when implementing changes, is most consistent with Section 402(b)(2)(B). Alternatively, PRTC suggests that carriers be allowed to file and implement changes to their CAMs simultaneously. This alternative would provide a compromise between the de-regulatory demands of Section 402(b)(2)(B) and the

Commission's desire to track changes in the allocation of carriers' costs. As between the two Commission-proposed alternatives, PRTC believes that neither one is truly consistent with the pro-competitive spirit of the 1996 Act and with Section 402(b)(2)(B). However, PRTC believes that the current 60-day notice requirement does the least violence to Congressional intent. The proposed waiver procedure, which increases the burdens on reporting carriers and undoubtedly lengthens the delay in implementing responses to competition involving CAM changes, is plainly contrary to the spirit of the 1996 Act.

B. Reducing the Reporting Requirements of Carriers Is Consistent with the Plain Language of the Statute and Legislative History.

The 1996 Act fundamentally changed the telecommunications marketplace. As Congress stated in passing the 1996 Act, the purpose of the 1996 Act is:

to provide for a pro-competitive, de-regulatory national policy framework designed to accelerate rapidly private sector deployment of advanced telecommunications and information technologies and services . . . by opening all telecommunications markets to competition. . . .⁶

Introduction of such competition into the marketplace creates demands on telecommunications service providers, demands that

6. H.R. CONF. REP. NO. 458, 104th Cong., 2d Sess. 113 (1996).

carriers cannot respond to using old, outmoded systems designed for a regulated marketplace. Simply put, all common carriers must be nimble enough to manage their resources and respond to the emerging competition.

The current requirement of a 60-day notice requirement before implementing changes to a carrier's CAM is contrary to the demands of a competitive market. During that two month period, major changes could easily occur that would make the proposed CAM changes, and more importantly, the underlying operating changes, meaningless. Waiting two months before responding to the demands of a highly competitive market could place carriers at a severe competitive disadvantage. Chairman Hundt recognized this in a recent speech when he stated, "[t]he way to the sunny green fields of vigorous deregulated competition in local telephony is to focus on facilitating entry by new firms and in liberating existing firms from unnecessary restraints."⁷ Requiring a 60-day delay in response to a competitive challenge is an unnecessary restraint that requires carriers to stand by while their nimble competitors with fewer reporting requirements pass them by.

7. Chairman Reed Hundt, Address at the Media & Communications '96 Conference Waldorf-Astoria Hotel, New York, (Sept. 17, 1996).

The language of Section 402(b)(2)(B) likewise indicates Congressional desire to reduce the reporting requirements for carriers. By expressly reducing the CAM reporting interval from quarterly to annually, Congress sought to liberate carriers from the reporting requirements of a regulated era. Replicating these reporting requirements through the 60-day notice requirement is contrary to the will of Congress.

C. Dispensing with the 60-day Notice Requirement Will Not Inhibit the Commission from Detecting Subsidization of Competitive Ventures by Local Exchange Carriers.

The Commission's primary motivation in retaining some form of notice requirement (whether in the form of a 60-day notice or in the form of a waiver) appears to be a concern over its ability to detect subsidization of competitive ventures by carriers.⁸ PRTC believes that the changes enacted by Congress balance this concern with a desire to inject competition into the marketplace. Reducing the reporting interval from quarterly to annually is a clear demonstration of Congressional preference for this balanced approach. Furthermore, PRTC believes that competition will be more effective at ferreting out any such subsidization than will either reporting requirement proposed by the Commission.

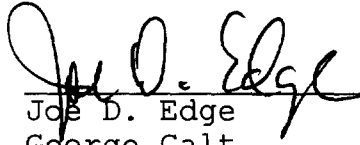
8. See NPRM ¶ 21 at n. 60 (noting the seven subsections of the 1996 Act that prohibit such subsidization).

III. CONCLUSION

Based on the foregoing, PRTC respectfully urges the Commission to implement Section 402(b)(2)(B) in such a way as to foster competition. PRTC believes that both proposals from the Commission are inconsistent with Section 402(b)(2)(B). PRTC therefore suggests that the Commission abolish the 60-day notice requirement and allow carriers to update their CAMs yearly, with no interim reporting requirement. If, however, the Commission believes that this procedure does not provide it with sufficient information, PRTC urges the Commission to allow carriers to implement changes to their CAMs while simultaneously notifying the Commission. As between the two proposals made by the Commission, PRTC believes that the current 60-day notice requirement is superior to seeking a waiver of the Commission's rules. The waiver system would introduce even more latency between changes in the marketplace and a carrier's ability to respond to those changes.

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Respectfully submitted,



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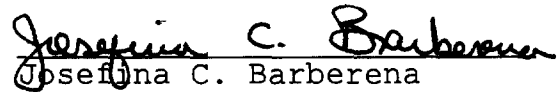
CERTIFICATE OF SERVICE

I, Josefina C. Barberena, hereby certify that a copy of the foregoing was delivered by hand on October 15, 1996 to the following:

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